

United States
Circuit Court of Appeals
For the Ninth Circuit.

WONG CHUNG,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.

Filed

MAR 20 1917

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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*In the District Court of the United States of
America, in and for the Southern District of
California, Southern Division.*

CASE No. 1119.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

WONG CHUNG,
Defendant.

Citation on Appeal.

To the United States of America, GREETING :

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, at a session thereof to be held at the city of San Francisco in the State of California, on the 9th day of December, A. D. 1916, pursuant to a writ of error on file in the clerk's office of the District Court of the United States in and for the Southern District of the State of California, in that certain action No. 1119, wherein Wong Chung is plaintiff in error and the United States of America is defendant in error, to show cause, if any there be, why the judgment given, made and rendered against the said Wong Chung in the said writ of error mentioned should not be corrected and speedy justice should not be done in that behalf.

WITNESS the Honorable OSCAR A. TRIPPET,
United States District Judge of the Southern District
of California, this 10 day of Nov., in the year of our
Lord, one thousand nine hundred and sixteen and of

the Independence of the United States the one hundred and forty-first.

OSCAR A. TRIPPET,
United States District Judge for the Southern District of California.

Service of a copy of the within Citation is hereby admitted this 10 day of Nov., 1916.

CLYDE R. MOODY,
Asst. U. S. Attorney, Southern District of California. [3*]

[Endorsed]: Case No. 1119. In the District Court of the United States, Southern District of California, Southern Division. United States, Plaintiff, vs. Wong Chung, Defendant. Citation. Filed Nov. 10, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [4]

Names and Addresses of Attorneys.

For Appellant:

DUKE STONE, Esq., 434-438 Merchants National Bank Building, Los Angeles, California.

For Appellees:

ALBERT SCHOONOVER, Esq., United States Attorney, and CLYDE R. MOODY, Esq., Assistant United States Attorney, Los Angeles, California. [5]

*Page-number appearing at foot of page of original certified Transcript of Record.

*In the District Court of the United States of
America, in and for the Southern District of
California, Southern Division.*

No. 1119—CRIMINAL.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

WONG CHUNG,

Defendant. [6]

*In the United States Commissioner's Court for the
Southern District of California, Southern Divi-
sion.*

No. 1119.

UNITED STATES OF AMERICA

vs.

WONG CHANG,

Defendant.

Notice of Appeal to the District Court.

To United States Commissioner Hammack, and
Albert Schoonover, United States Attorney in
and for said District:

Please take notice, that Wong Chang, the defend-
ant above-named does hereby appeal to the District
Court for the Southern District of California, South-
ern Division, sitting at Los Angeles, California, from
the judgment and order of deportation against him
made and entered on June 21st, 1916, and from the

whole thereof, and the said appeal is taken both on questions of law and questions of fact.

WONG CHANG.

By DUKE STONE,

His Attorney.

[Endorsed]: Original. No. 1119—Crim. In the United States Commissioner's Court for the Southern District of California, Southern Division. United States of America vs. Wong Chang, Defendant. Notice of Appeal to the District Court. Recd. Copy within this June 21, 1916, D. M. Hammack, U. S. Commissioner, Clyde R. Moody, Asst. U. S. Atty. Filed June 21, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Duke Stone, 434-436-438 Merchants Natl. Bank Bldg., Los Angeles, California, Phone: F-2132, Attorney for Defendant. [7]

At a stated term, to wit, the July term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Monday, the sixth day of November, in the year of our Lord, one thousand nine hundred and sixteen. Present: The Honorable OSCAR A. TRIPPET, District Judge.

No. 1119—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WONG CHANG,

Defendant.

Order Sustaining Order and Judgment of United States Commissioner.

This cause coming on at this time for further proceedings and orders on trial *de novo* before the Court, defendant having appealed from the order of a U. S. Commissioner for the deportation of defendant; Clyde R. Moody, Esq., Assistant U. S. Attorney appearing as counsel for the United States; defendant being present on bail, with his counsel, Duke Stone, Esq.; and said cause having been argued, on behalf of defendant, by Duke Stone, Esq., of counsel for defendant, and on behalf of the Government by Clyde R. Moody, Esq., Assistant U. S. Attorney, of counsel for the United States; and this cause having been submitted to the Court for its consideration and decision on the pleadings, proofs and argument; it is now by the Court ordered that the order and judgment of the U. S. Commissioner be, and the same hereby is sustained, and that, accordingly, defendant be deported to China; and it is further ordered, on motion of defendant, that defendant be, and hereby is granted a ten (10) days' stay of execution of judgment herein; and it is further ordered that, during said stay of execution of judgment, defendant's bail

be, and the same hereby is fixed at \$2500. Defendant is committed to the custody of the U. S. Marshal.
[8]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

No. 1119—CRIM.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
WONG CHANG,
Defendant.

Certificate of Clerk U. S. District Court to Judgment-Roll.

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of the Judgment made and entered in the above-entitled action; and I do further certify that the foregoing papers hereto annexed, constitute the Judgment-roll in said action.

ATTEST my hand and the seal of said District Court, this 9th day of November, A. D. 1916.

[Seal]

WM. M. VAN DYKE,
Clerk.

By Leslie S. Colyer,
Deputy Clerk.

[Endorsed]: No. 1119—Crim. In the District Court of the United States for the Southern Dis-

trict of California, Southern Division. The United States of America vs. Wong Chang. Judgment-roll. Filed Nov. 9, 1916. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Recorded Min. Book No. 25, page ——. [9]

In the District Court of the United States for the Southern District of California, Southern Division.

No. 1119.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WONG CHUNG,

Defendant.

Statement on Appeal.

BE IT REMEMBERED THAT heretofore, to wit, on November 6th, 1916, the above-entitled cause came on for trial before Honorable OSCAR A. TRIPPET of the United States District Court for said district, and the United States appeared by Clyde R. Moody, Assistant U. S. Attorney, and defendant appeared by his attorney, Duke Stone, and each party having announced ready for trial the following evidence was offered on behalf of the plaintiff and defendant, to wit:

Testimony of W. A. Brazie.

W. A. BRAZIE made the following statement:

Direct Examination.

I am a Chinese inspector, U. S. Immigration Service, and have been such for 12 years. I have known

(Testimony of W. A. Brazie.)

the defendant since last May. He is sitting behind Mr. Stone. I first saw him in a laundry on North Figueroa Street. I made the arrest while Inspector Conaty, Miller and Nardini were with me. Defendant was washing clothes at the time of the arrest. I asked him if he had a certificate of residence or anything to show his right to be here, and he said no. I asked him concerning his occupation, and he said he was a washman at Sam Kee Laundry. He said he was a Chinaman.

Cross-examination.

I have a statement in writing that he told me he was working for a laundry. (Reading:) "Q. What is your occupation? [10] A. Laborer. Washer Sam Kee Laundry, 241 Figueroa Street in Los Angeles." This was taken down at the time he answered the question. It was taken down in shorthand and then transcribed. He signed the note-book—the shorthand notes. (Produced note-book and read): "Q. What is your occupation? A. Laborer. Washer Sam Kee Laundry, 241 North Figueroa Street, Los Angeles." The word "laborer" is there. I wrote that at the Immigration Office after I arrested him and brought him there. Mr. Levy was the Interpreter.

Testimony of Wong Do Toy.

WONG DO TOY, thru the interpreter, made the following statement:

Direct Examination.

I am 44 years of age; have lived in Los Angeles 28

(Testimony of Wong Do Toy.)

years. I was born in San Francisco, and I know Wong Chung, the man standing up. I have known him about 20 years—since he came to Los Angeles. I did not know him before he came to Los Angeles. I first got acquainted with him when he came to Los Angeles with his uncle. At that time I kept a restaurant, the Hong On Restaurant, 409 Los Angeles Street. He came to my restaurant with his uncle and he took a meal there, and his uncle took him in the kitchen and he told the boy—the boy at that time was six years old—he told the boy and introduced me to the boy, and told me that a woman would take care of the boy. He stayed with that woman for about three years. Then I asked him to come to my restaurant and peel potatoes and clean vegetables and help in the kitchen. He stayed with me about two or three years. Then he went to work at Gooey Ying Lung's store for four or five years, and after that he went to work in a laundry. I saw him once in a while on the street and would say, "How do you do?" to him and ask, "Where do you work?" He would say, "I am still working," but I had no particular conversation with him. I know him to be the same man as the one who was brought to the restaurant by his uncle about twenty years ago. I testified before the commissioner when we had the hearing. I know Wong Guey; he is his uncle—the uncle [11] that brought him to the restaurant or place of business about twenty years ago. Wong Guey went to work, I don't know where. I don't know Two Chee.

(Testimony of Wong Do Toy.)

Cross-examination.

Wong Guey stayed at my place about a month or a little more and then he went to work—in a hotel or some place—but I don't know where he worked.

Testimony of Wong Chung.

WONG CHUNG, thru the interpreter, made the following statement:

Direct Examination.

I am thirty years of age, I am the defendant. I remember when I was arrested; four men were along at the time. I was arrested in Sam Kee's Laundry where I was washing clothes. I had been working there several years. I lived in Los Angeles twenty-some years. I have got lots of friends and clansmen. I had an uncle by name of Wong Gooley. G-u-e-y I would spell it. He came here when I was about five or six years old. I do not remember the time I came, it is so long ago. I was so young then that I do not remember the circumstances when I came to Los Angeles. I don't remember much about my first recollection when I came to Los Angeles, because the city was building new buildings pretty often. I came here with my uncle from San Francisco. I have no parents now. Mr. uncle told me my father died at the fish camp, and I don't know nothing about my mother, if she is living or dead. My uncle told me this after I came to Los Angeles. He told me this about 20 years ago. As to where I have worked and lived since I came to Los Angeles, it has been so long ago that I don't remember, and I have been staying

(Testimony of Wong Chung.)

with my clansmen and their stores, and roomed in so many different places. I have lived in Los Angeles all this time, and the only work I have done during all this time was washing clothes in several different laundries in Los Angeles. Some laundries were closed since. As to where I lived before coming to Los Angeles, I was told by my uncle that [12] I used to live in San Francisco. I was so young then that I do not remember anything about San Francisco. I remember that I came on the train. I don't remember anything that happened before I started from San Francisco, it has been so long ago. I remember that it was a large town.

Cross-examination.

I am thirty years old now—Chinese count. I was born in the year K. S. 12—Chinese. (Interpreter said K. S. 12 means 1886.)

Questions and answers in full:

“Q. Now. I will ask you if on the 2d day of May, 1916, in the Immigration office in this building, present W. A. Brazie, the inspector and examining inspector, and Charlie Levy, interpreter, you were not asked this question and you did not make this answer: “Q. How old are you? A. 30 years, Born K. S. 8, first month 15th day?”

A. No, sir; I never did say so.

Q. Now, what would K. S. 8 be, Mr. Interpreter?

INTERPRETER.—1882.”

Q. And at the same time and in the presence of the same people did you make these answers to these ques-

(Testimony of Wong Chung.)

tions: "Q. What is your father's name? A. Wong Hing Chung. Q. How old is your father? A. He died 20 years ago?"

A. Yes, my father is Hing Tong.

Q. Were you asked this question: "Q. How old is your father? A. He died twenty years ago. Q. Where did he die? A. In Chung On Village, China?"

A. No, sir; I never did.

Q. Have you got a married name? A. No, sir.

Q. I will ask you if at the same time and place you were not asked this question: "Q. State all your names to which you [13] answer? A. Wong Chung, married name Wong Soe Dung?"

A. I only told my name at that time.

Q. And were you further asked: "Q. Are you married? A. No; I am not married." And were you further asked: "Q. Then how is it that you have a married name?" And did you not answer: "A. Some years ago the Wong people built a large ancestral hall and all members of the family must have a tablet in the ancestral hall, so they gave me a married name in that tablet. I got my married name in that way."

A. Yes; that is correct. That was told by my uncle, but I never visited China myself and I don't know anything about it.

Q. Then you have got a married name, haven't you? A. Yes, as told by my uncle.

Q. What is your married name?

A. I never visited China.

(Testimony of Wong Chung.)

Q. What is your married name?

A. I forgot about it—what my uncle told me—now.

Q. You don't know now what your married name is?

A. I am not married. How can I get a married name?

Q. Didn't you just explain you got a married name by your family giving you a married name in the ancestral hall?

A. Yes. That is all told by my uncle, but I have no knowledge about it.

Q. Did your uncle tell you you had a married name?

A. He said I have been a member of the ancestral hall and had a tablet there.

Q. On the 2d day of May, 1916, Mr. Brazie and Mr. Levy present, were you asked the question: "Q. What is your mother's name?" And did you answer: "A. Lee Shee; died a long time ago. She died after my father's death. She died in Chung On Village, China."

A. No; not correct. I only told my parents died and I never did tell the length of time of my father's death. [14]

Q. Now, at the same time and place, were you asked when your father died, and did you answer Kwong Suey 5?

A. No; no, sir.

Q. Kwong Suey 5, Mr. Interpreter, would be 1879, would it not?

(Testimony of Wong Chung.)

INTERPRETER.—Yes.

Q. Then were you asked referring to your father:
 “Q. When did he go back to China from San Francisco? A. He went to China about two years prior to his death.”

A. No, sir; I never said my father returned to China.

Q. And then were you asked, “Q. When did your mother die? A. About three or four years after my father died. Q. When did she go back to China? A. She went with my father.”

A. No, sir; I never did say so.

Q. And were you asked the question, “Q. When did your mother die? A. About three or four years after my father died.”

A. No, sir; I never did say so, but I was told my father died.

Q. And at the same time and place were you asked the question, “Q. And she died about K. S. 7 or 8? A. Yes.”

A. No, sir; I never did say so.

Q. And were you further asked the question, “Q. Both your father and mother returned to China about two years prior to K. S. 5? A. Yes.”

A. No, I never did say so.

Q. Were you further asked the question, “Q. Your father died K. S. 5? A. Yes. Q. And you were born K. S. 8? A. Yes; I am 30 now.”

A. Just now I am thirty years old. I told the truth.

Q. Can you speak English? A. No, sir.

(Testimony of Wong Chung.)

Q. Did you ever go to English school? [15]

A. No, sir; I never did, because my parents died when I was very young.

Q. Did you ever attend Chinese school?

A. No, sir; I never attended school, but I learned some from my clansmen. They taught me how to write my name.

Q. You say you never attended school—Chinese school. A. No, sir.

Q. At the time and place, May 2d, 1916, in the Immigration Office in this building, in the presence of Mr. Brazie and Mr. Levy, were you not asked, "Q. Where did you attend school? A. Chinese school here in Los Angeles for several years."

A. Yes, sir. A fortune teller named Lee You Yee taught me in Chinese school, but didn't charge me anything.

Q. Then you did go to school?

A. Yes. He didn't charge me anything. I only studied in the evening time.

Q. Did you ever vote in this country?

A. No, sir.

Wong Chung continues as follows:

I never owned any property here. I was asked in my direct examination to state where I have worked, and I stated I have worked in several Chinese laundries—that is correct. I have been working in laundries, but some of them were closed up. Some years I was without work. I have worked at Guey Ying Lung as cook. I have also been working for Wong Do Toy at his restaurant,—three and some

(Testimony of Wong Chung.)

years—five or six years. That is the name of the same man that testified. That was the first place I worked when I came to Los Angeles, that is, a long time after. Before I went to work for him I remained with Moy Moo, a woman. She took care of me four or five or six years. I went there when I was five or six years old,—as soon as I *can* to Los Angeles [16] with my uncle. After I lived with Moy Moo for five or six years I went to work for Wong Do Toy. I worked for him several years. I don't know how many because at that time I was so young and I can't remember. I don't remember my age when I quit Wong Do Toy's place. I quit him approximately more than ten years. It is so long ago I do not remember how long I worked for Wong Do Toy. I cannot make any approximation of the time at all. When I left Wong Do Toy I went to work at Gooy Ying Lung as cook. I worked for him four or five years. Then I was out of work for a while and then I went to work as a washer. I was out of work over a year. I was washing clothes for fourteen or fifteen years. The name of the first place was Hung Han laundry. I don't know how long I stayed there, it has been so long ago. The place was closed up.

Testimony of Charles Levy.

CHARLES LEVY, a witness on behalf of the Government, made the following statement:

Direct Examination.

I am the Chinese Interpreter in the Immigration Service, and have been such for some time last past.

(Testimony of Charles Levy.)

I was engaged in my duties as such interpreter on the 2d day of May, 1916. I acted as interpreter in the office of the Immigration Service at the time a statement was taken from the defendant Wong Chung by Mr. W. A. Brazie, on May 2d, 1916. I interpreted all the questions and answers correctly.

Testimony of W. A. Brazie (Recalled).

W. A. BRAZIE made the following statement:

On the 2d day of May, 1916, I was the examining inspector at the time a statement was taken from the defendant Wong Chung, I took the testimony down in shorthand. A part of it was taken the following morning. This was done through the interpreter. I wrote down in shorthand the questions as I propounded them and answers as they came through the interpreter. I afterwards transcribed my shorthand notes, correctly. I have the shorthand notes with me. The statement shown me is a correct transcript of my notes, made by me personally—it is correct with the possible exception [17] of misspelled words or wrong punctuation.

Re statements in transcript:

MR. MOODY.—I desire to read a portion of that statement concerning which I asked the defendant while he was on the stand. The entire statement I did not ask him about.

MR. STONE.—To save time, I will assume that the questions asked and the answers made that you read and asked him if he did not answer that—that

(Testimony of W. A. Brazie.)

the record shows that. I assume that you were reading from the record.

Mr. MOODY.—(Reading.) “Q. State all your names. A. Wong Chung, and married name Wong Sai Dung. Q. How old are you? A. 30 years; born K. S. 8-1-15, which would be March 4, 1882.” If any of this is not stipulated as to the translation of the Chinese dates, I have a book here, Mr. Stone, and I will produce the dates. I am reading the translation also of the dates.

Mr. STONE.—I suppose that is as reliable as the book.

Mr. MOODY.—(Resuming the reading:) “Q. What village does your father belong to? A. Chung On Village, also called Par Sar Long Village, Sun Ning District, China. Q. What is your father’s name? A. Wong Hing Chung. Q. How old is your father? A. He died 20 some years ago. Q. Where did he die? A. In Chung On Village, China. Q. Were you at home when he died? A. No; I was in this country. Q. When did you come to this country? A. I was born in San Francisco; my father left here when I was young. Q. Are you married? A. No; I am not married. Q. Then how is it you have a married name? A. Some years ago the Wong people built a large ancestral hall and all members of the family must have a tablet in the ancestral hall, so they gave me a married name in that tablet. I got my married name in that way. Q. What is your mother’s name? A. Lee Shee; died long time ago. She died after my father’s death.

(Testimony of W. A. Brazie.)

She died in Chung On Village, China. Q. Have you any brothers and sisters? A. No; I am alone. Q. Was your father ever in the United States? A. Yes; [18] he was in San Francisco, and was a laborer." "Q. When did you say he died? A. Died K. S. 5, (1879). Q. When did he go back to China from San Francisco? A. He went to China about two years prior to his death. Q. When did your mother die? A. About three or four years after my father died. Q. When did she go back to China? A. She went with my father. Q. And she died about K. S. 7 or 8? (1881 or 1882.) A. Yes. Q. Both your father and mother returned to China about two years prior to K. S. 5? (1879.) A. Yes. Q. Did you go to China with them? A. No; I never did make a trip there. Q. Where did you live after your father and mother went to China? A. Lived in Los Angeles. I made my headquarters with Gooey On Co. Q. How old were you when your father and mother went to China? A. About when I was six years old. Q. And your father died K. S. 5? (1879.) A. Yes. Q. And your mother died about three years later? A. Yes. Q. And you were born K. S. 8? (1882.) A. Yes; I am 30 now. Q. Are you positive about that? A. I don't know exactly K. S. 8 when I was born, but I know I am 30 years old now. Q. Please write here your name and the place where you make your headquarters?"

(By Mr. MOODY to Mr. BRAZIE.)

Q. Is that place on the book where he wrote the name?

(Testimony of W. A. Brazie.)

A. He wrote it on the book.

(Reading:) "A. (Tracing of Chinese characters written by witness.) Can you write your name in English? A. No, sir. Q. You state you are now 30 years old; is that Chinese or American count? A. Chinese count. Q. Then you are 29 years of age, American count. A. I don't know, but I am now 30 years old, Chinese count. Q. Are you positive your father died K. S. 5? (1879.) A. Yes. Q. And you were six years of age when your father returned to China?"

The COURT.—Is that 1879? [19]

Mr. MOODY.—1879 that his father returned to China, and he was six years old at that time according to his own statement.

(Reading:) "A. Yes. Q. Who did you live with at that time? A. With nobody. I stayed in a room in Chinatown, San Francisco. Q. Give me the names of some Chinese who knew you in San Francisco. A. I don't know anybody who knows about my birth there. Q. How did you make a living if you were only six years of age when your father left you in San Francisco? A. Some of my clansmen fed me. Q. What are the names of the clansmen who fed you? A. I don't know their names. Q. When did you come to Los Angeles? A. I came here about 20 years ago. Q. What is your occupation? A. Laborer; washer at the Sam Kee laundry, 241 Figueroa Street, in Los Angeles. Q. How long have you worked in that laundry? A. For several years; six or seven years. Q. Have you any papers showing that you were born

(Testimony of W. A. Brazie.)

in San Francisco? A. No, sir. Q. Did you ever have any papers showing you were born in San Francisco? A. No, sir. I never had any papers. I just know I was born in San Francisco. Q. Have you any witnesses to that effect? A. No; I don't know any. Q. I will ask you again: your father died K. S. 5? (1879.) A. Yes. Q. And your mother died about three years later? A. Yes. Q. And both of them went to China about two years before your father died? A. Yes, sir. Q. And you were six years old then? A. Yes. Q. And you state you were born K. S. —? (1882.) A. Yes. Q. And you were born in San Francisco? A. Yes. Q. Where in San Francisco? A. I don't remember the name of the street, but it was near the park. Q. What was the number of the building? A. I don't remember the number. Q. Name some of the streets in Chinatown, San Francisco? A. Key Lee Sun Street. Q. Where is that street located? A. I think near Chinatown, but I don't remember much myself. Q. Do you know the name of any other streets in San Francisco? A. No. [20] Q. Where did you attend school? A. Chinese school here in Los Angeles for several years. Q. Where was the school located? A. The school located on Los Angeles street, but I don't remember the number; on the same side where Gooley On store is. Q. Who was the teacher of that school? A. He was a Lee man, but I forget his name now. Q. Where did you live while attending that school? A. In a building in Chinatown. Q. What building in Chinatown?—”

(Testimony of W. A. Brazie.)

Mr. STONE.—Are you reading questions that you asked him on the witness-stand?

The COURT.—I think the entire statement is admissible whether you asked him or not.

(Reading:) “Q. What building in Chinatown? A. Near Jung Suey’s; about two doors from there. Q. Who had charge of that building? A. It was an American man owned the building. Q. Who did you pay rent to? A. American man come to collect it, but I don’t know his name. Q. How long did you live in that building? A. For many years. I lived there ever since I came to Los Angeles. Q. Have you a room there now? A. Yes. Q. What is the number of that room? A. There is no number on the room.” Then there is an interpolation by the interpreter, or by the inspector relative to a question asked of the defendant. I don’t think it is competent. It is simply that the witness informs the interpreter that he has a trunk in that room and so forth. Then there are several questions asked in English. (Reading:) “Q. (In English.) What is your name. A. Hesitates and no answer. Q. How old are you? A. No answer. Q. What do you work at? A. No answer. Q. Are you married? A. No answer. Q. Where do you work? A. No answer. Q. What is your boss’ name? A. No answer. (Alien evidently not able to understand any English.) Q. (Through interpreter.) Can you speak English? A. No. Q. And you have lived thirty years in the United States and can speak no English? A. Yes; that is right. I don’t know how to speak English. [21] Q. Where

(Testimony of W. A. Brazie.)

have you worked in Los Angeles, during your twenty years' residence here, besides the Sam Kee laundry?

A. Ock Sing Kee laundry on Fifteenth Street, Los Angeles, but that building was destroyed. I heard the building was destroyed and a new building there now. Q. Did you say you were never married? A.

No; never married. Q. Have you any children? A. No; I have no children. How could I have if I never married? Q. Were you ever in China? A. No.

Q. Were you ever in Mexico? A. No. Q. Have you understood the interpreter at all times during this examination? A. Yes. (Tracing a signature.)”

Then there is the continuation on the third. Reading:) “Q. You state you were born in San Francisco? A. Yes, sir. Q. How do you know this? A. I learned that myself when I was six or seven years old. Q. How did you learn it? A. My clansmen told me so. Q. Have you any witnesses who know you were born in San Francisco? A. No; I don't remember at the present time, but one could testify for me, but he went to China and died there. Q. Can you name any person who knew you in San Francisco? A. No. Q. How do you expect to prove you were born in San Francisco? A. I don't know how. I don't want to say anything more. I will employ a lawyer for my case. Q. How long did you say you had been working at the Sam Kee laundry? A. Two or three years. Q. You have stated you worked there for six or seven years. Which statement is correct? A. Well, I meant I also worked in other places. Q. Have you been employed continuously at the Sam

(Testimony of W. A. Brazie.)

Kee laundry for the past two or three years? A. No; I went there a little over two years ago and worked there until about February, 1915, when I quit and went to the Quong Lun Sing laundry and worked there until about the 11th month last year, then went back to Sam Kee laundry and worked there until yesterday. Q. Have you any witnesses to offer as to your birth in San Francisco? A. I don't know myself. I wish you to telephone to Goey On store and get Sai Lut. Q. What does [22] Sai Lut know about your birth? A. He don't know anything about my birth, but he is my closest relative, and maybe he will find some witnesses for me. Q. Do you know the names of any witnesses that he will find who will testify to your birth in San Francisco? A. I don't know myself, and I want to get a lawyer to come up here and then I will tell the story. Q. Have you seen any persons since you have been in Los Angeles who know anything about your birth in San Francisco? A. No. Q. Have you met any Chinese or other persons in Los Angeles who knew you when you were a boy in San Francisco? A. No. Q. Do you know the name of any person who can testify to your birth? A. No. Q. Have you understood the interpreter at all times during this examination? A. Yes."

Testimony of Wong Moy.

WONG MOY, a witness called on behalf of the defendant, made the following statement:

Direct Examination.

I am 67 years old; have lived in Los Angeles a few tens of years. I cannot speak English. I know

(Testimony of Wong Moy.)

Wong Chung—have known him since he was a little boy,—since he was three or four years old. He was big enough then to run around and play and talk—just able to walk. I knew Wong Guey. I don't know anything about Wong Chung when he was in San Francisco, but Wong Guey came to Los Angeles with him and Wong Guey appealed to me that he had no father, and Wong Guey asked me to take care of him. I am sure this is the same boy. I don't know anything about his being in San Francisco, but when this old man took Wong Chung to Los Angeles and asked me to take care of him, since that time and up to now I know him. I can't remember how long it is since he came, but he is a big boy now. I saw him very often since he first came to my house. Mr. Guey told me that Wong Chung was three or four years old when he was brought to me. Guey said that the boy had no parents and that he could not take care of him himself because he was a man,
[23]

Testimony of Wong Chung (Recalled.)

WONG CHUNG made the following statement:

I did not live in any country except this country. I only lived in Los Angeles and San Francisco. I have no recollection of any other place. I don't know anything about where I was born except what my uncle told me.

It is stipulated that the foregoing is a true and correct statement of the evidence offered on behalf of the plaintiff and defendant in the above entitled action.

Dated November 25, 1916.

CLYDE R. MOODY,
Asst. U. S. Atty.,
Attorney for Plaintiff.

Certificate of Judge.

I hereby certify that the foregoing is a true and correct statement of the evidence offered on behalf of the plaintiff and defendant in the above entitled action and that the same is hereby settled as a true and correct statement of said cause on appeal.

Dated November 25th, 1916.

TRIPPET,
United States District Judge.

[Endorsed]: Original. No. 1119. In the District Court of the United States, Southern District of California, Southern Division. United States of America, Plaintiff, vs. Wong Chung, Defendant. Statement on Appeal. Filed November 25, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Duke Stone, 434-436-438 Merchants National Bank Bldg., Los Angeles, California. Phone: F-2132, Attorney for Defendant.

*In the District Court of the United States, in and
for the Southern District of California, Southern
Division.*

CASE NO. 1119.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WONG CHUNG,

Defendant.

Petition for Appeal.

Comes now Wong Chung, the petitioner above named and the appellant herein, and says:

That on November 6th, 1916, the above-entitled court made and entered its order and judgment ordering the defendant to be deported to China, in which said order and judgment in said entitled cause certain errors were made as to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith:

WHEREFORE, this appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States, for the Ninth Circuit thereof, for the correction of the errors complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals, for the Ninth Circuit thereof.

Dated at Los Angeles, California, November 10, 1916.

DUKE STONE,

Attorney for Petitioner and Appellant Herein.

[25]

[Endorsed]: Original Case No. 1119. In the District Court of the United States, for the Southern District of California, Southern Division. United States, Plaintiff, vs. Wong Chung, Defendant. Petition for Appeal. Received copy of within Petition this 10 day of Nov., 1916. Clyde R. Moody,

Asst. U. S. Atty. Filed Nov. 10, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California, Phone, F-2132, Attorney for Defendant. [26]

In the District Court of the United States of America, in and for the Southern District of California, Southern Division.

Case No. 1119.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

WONG CHUNG,

Defendant.

Assignment of Errors.

The defendant in this action in connection with his petition for a writ of error makes the following assignment of errors which he avers occurred upon the trial of this cause, to wit:

1. The Court erred in not finding that defendant was a native-born citizen of the United States and entitled to be and remain within the said United States.

2. The Court erred in sustaining judgment and order of the Commissioner.

3. The Court erred in remanding the defendant to the custody of the Marshal and adjudging that he was unlawfully within the United States.

DUKE STONE,

Attorney for Defendant.

[Endorsed]: Original. Case No. 1119. In the District Court of the United States, Southern District of California, Southern Division. United States, Plaintiff, vs. Wong Chung, Defendant. Assignment of Errors. Copy received 11-10-16. Clyde R. Moody, Asst. U. S. Atty. Filed Nov. 10, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California, Phone, F-2132, Attorney for Defendant. [27]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

CASE NO. 1119.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WONG CHUNG,

Defendant.

Order Allowing Appeal.

On this 10 day of November, 1916, came Wong Chung, petitioner herein, by his attorney, Duke Stone, and having previously filed same herein, did present to this Court his petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by him, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent and transmit-

ted to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had in the premises as may seem proper.

NOW, THEREFORE, on consideration thereof, this Court hereby allows the appeal hereby prayed for, and orders execution and remand stayed pending the hearing of the said cause in the said United States Circuit Court of Appeals for the Ninth Circuit; and it is further ordered that the said Wong Chung may remain at large upon the bond previously given before this Court in this matter, during the pendency of the appeal taken herein from said judgment; provided said appeal be docketed in the Circuit Court of Appeals within 30 days from date hereof, and that the said Wong Chung do not depart from the jurisdiction of this Court, but [28] remain and abide by whatever judgment shall finally be entered therein.

Dated at Los Angeles, California, Nov. 10, 1916.

OSCAR A. TRIPPET,

United States District Judge.

Due service of the within order allowing appeal and receipt of a copy thereof is hereby admitted this — day of ———, 1916.

United States District Attorney,

By _____,

Deputy.

O. K.—CLYDE R. MOODY.

Asst. U. S. Atty.

[Endorsed]: Original. Case No. 1119. In the District Court of the United States, Southern District of California, Southern Division. United States, Plaintiff, vs. Wong Chung, Defendant. Order Allowing Petition for Appeal. Filed Nov. 10, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California, Phone, F-2132, Attorney for Defendant. [29]

Bond.

United States of America,
Southern District of California,—ss.

BE IT REMEMBERED, that on this 6th day of November, 1916, came on to be heard the case of the United States vs. Wong Chung, No. 1119 on appeal from the United States Commissioner to the District Court of the United States for the Southern District of California, and the said United States Court having made an order of deportation against said defendant and he having been committed to the United States Marshal on this date, now therefore, we, Leon Escallier and P. F. Pirri as sureties, and jointly and severally acknowledged themselves to be indebted to the United States of America, in the sum of twenty-five hundred dollars, separately to be levied and made out of their respective goods and chattels, lands and tenements, to the use of the said United States.

The condition of the above recognizance is such, that, whereas, said order of deportation has been

herein made against said Wong Chung on the 6th day of November, A. D. 1916, in the District Court of the United States, for said Southern District of California,

AND WHEREAS, the said Wong Chung has been required to give recognizance, with sureties, in the sum of twenty-five hundred dollars for his appearance,

NOW, THEREFORE, if the said Wong Chung shall personally appear at the District Court of the United States for the Southern District of California, to be holden at the courtroom of said court, in the city of Los Angeles, whenever or wherever he may be required to answer the said order and all matters and things that may be objected against him whenever the same may be prosecuted, and render himself amenable to any and all lawful orders and process in the premises, and not depart the said Court [30] without leave first obtained, and shall appear for deportation and render himself in execution thereof, then this recognizance shall be void; otherwise to remain in full effect and virtue.

WONG CHONG, (Seal)

LEON ESCALLIER. (Seal)

F. P. PIRRI. (Seal)

Acknowledged before me the day and year first above written.

O. K.—MOODY,

Asst. U. S. Atty.

Southern District of California,—ss.

Leon Escallier, F. P. Pirri, being duly sworn, each for himself, deposes and says that he is

a householder in said District, and is worth the sum of twenty-five hundred dollars, exclusive of property exempt from execution, and over and above all debts and liabilities.

LEON ESCALLIER.

F. P. PIRRI.

Subscribed and sworn to before me, this 6th day of Nov., A. D. 1916.

[Seal]

JOHN J. BESSOLO,

Notary Public in and for the County of Los Angeles,
State of California.

The form of the foregoing Bond and the sufficiency of the sureties thereto is hereby approved.

BLEDSOE,

Judge.

[Endorsed]: No. 119. United States of America, Southern District of California. United States, Plaintiff, vs. Wong Chung, Defendant. Appearance Bond. Filed Nov. 6, 1916. Wm. M. Van Dyke, Clerk. By Geo. W. Fenimore, Deputy. Duke Stone, 434-436-438 Merchants Nat'l Bank Bldg., Los Angeles, California, Phone, F-2132, Attorney for Defendant. [31]

UNITED STATES OF AMERICA.

*District Court of the United States, Southern
District of California.*

Clerk's Office.

No. 1119.

UNITED STATES

vs.

WONG CHUNG.

Praeipce for Transcript of Record.

To the Clerk of Said Court:

Sir: Please issue the Judgment-roll, Bill of Ex-ceptions and Petition for Appeal, Order Allowing Appeal and Statement on Appeal.

DUKE STONE,
Attorney for Deft.

[Endorsed]: No. 119—Criminal. U. S. District Court, Southern District of California, So. Div. U. S. v. Wong Chung. Praeipce of Defendant for Record on Appeal. Filed Dec. 1, 1916. Wm. M. Van Dyke, Clerk. By Murray C. White, Deputy Clerk. [32]

In the District Court of the United States of America, in and for the Southern District of California, Southern Division.

NO. 1119—CRIMINAL.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

WONG CHUNG,
Defendant.

Certificate of Clerk U. S. District Court to Transcript of Record.

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing thirty-two typewritten pages, numbered from 1 to 32, inclusive, and comprised in one

volume, to be a full, true and correct copy of the Notice of Appeal to the District Court, Order of the Court sustaining the Order and Judgment of the U. S. Commissioner, Clerk's Certificate of Judgment-roll, Statement on Appeal, Petition for Appeal, Assignment of Errors, Order Allowing Petition for Appeal, Appearance Bond, and the Praecipe for Record on Appeal in the above and therein-entitled action, and that the same together constitute the record in said cause as specified in the said Praecipe filed in my office on behalf of the appellant by his attorney of record.

I do further certify that the cost of the foregoing record is \$18.40, the amount whereof has been paid me by Wong Chung, the Appellant herein.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the District Court of the United States, in and for the Southern District of California, Southern [33] Division, this 27th day of December, in the year of our Lord one thousand nine hundred and sixteen and of our Independence the one hundred and forty-first.

[Seal]

WM. M. VAN DYKE,

Clerk of the District Court of the United States of America, in and for the Southern District of California. [34]

[Endorsed]: No. 2930. United States Circuit Court of Appeals for the Ninth Circuit. Wong Chung, Appellant, vs. The United States of America, Appellee. Transcript of the Record. Upon Appeal from the United States District Court for the Southern District of California, Southern Division.

Filed January 29, 1917.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.